



January 31, 2002

HOUSE BILL No. 1129

DIGEST OF HB 1129 (Updated January 30, 2002 9:49 AM - DI 87)

Citations Affected: IC 7.1-3; noncode.

Synopsis: Wine sales and beer dealer permits. Specifies that the alcohol and tobacco commission may issue a beer dealer's permit to a package liquor store. Legalizes beer dealer permits issued to package liquor stores after June 30, 1997. Allows a farm winery to purchase and sell bulk wine. Allows a wine dealer to deliver any amount of wine to a customer.

Effective: Upon passage; July 1, 2002.

Alderman

January 8, 2002, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.
January 30, 2002, amended, reported — Do Pass.

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January 31, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1129

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 7.1-3-5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The
3 commission may issue a beer dealer's permit only to an applicant who
4 is the proprietor of a drug store, ~~or~~ grocery store, **or package liquor**
5 **store.**
6 (b) The commission may issue a beer dealer's permit to an applicant
7 that is a foreign corporation if:
8 (1) the applicant is duly admitted to do business in Indiana;
9 (2) the sale of beer is within the applicant's corporate powers; and
10 (3) the applicant is otherwise qualified under this title.
11 (c) The commission shall not issue a beer dealer's permit to a person
12 who is disqualified under the special disqualifications. However, the
13 special disqualification listed in ~~IC 7.1-3-4-2(13)~~ **IC 7.1-3-4-2(a)(13)**
14 shall not apply to an applicant for a beer dealer's permit.
15 (d) Notwithstanding subsection (a), the commission may renew a
16 beer dealer's permit for an applicant who:
17 (1) held a permit before July 1, 1997; and

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(2) is the proprietor of a confectionery or a store that:

(A) is not a drug store, ~~or~~ grocery store, **or package liquor store;**

(B) is in good repute; and

(C) in the judgment of the commission, deals in merchandise that is not incompatible with the sale of beer.

SECTION 2. IC 7.1-3-12-5, AS AMENDED BY P.L.235-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The holder of a farm winery permit:

(1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;

(2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;

(3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;

(4) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at either wholesale or retail;

(5) is exempt from the provisions of IC 7.1-3-14;

(6) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery; ~~and~~

(7) for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises; **and**

(8) is entitled to purchase and sell bulk wine as set forth in this chapter.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at a second location that is separate from the winery. At the second location, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than nine (9) days in a calendar year.

SECTION 3. IC 7.1-3-12-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2002]: **Sec. 7. (a) Except as provided in subsection (b), a farm winery may purchase annually a quantity of bulk wine that does not exceed the greater of the following:**

(1) Five thousand five hundred (5,500) gallons.

(2) Fifty percent (50%) of the quantity of wine produced by fermentation by the winery during the previous year.

(b) This subsection applies to a farm winery that suffers a loss of wine inventory due to natural or manmade disaster. If the farm winery documents the inventory loss and obtains permission from the commission, the winery may purchase a quantity of bulk wine not greater than the sum of the following:

(1) The quantity of the winery's wine inventory loss.

(2) The quantity of bulk wine that may be purchased by the farm winery annually under subsection (a).

SECTION 4. IC 7.1-3-15-3, AS AMENDED BY P.L.204-2001, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 3. (a) The holder of a wine dealer's permit shall be entitled to purchase wine only from a permittee who is authorized to sell to a wine dealer under this title. A wine dealer shall be entitled to sell wine for consumption off the licensed premises only and not by the drink.**

(b) A wine dealer shall be entitled to sell wine in permissible containers in a quantity of not more than three (3) standard cases, as determined under the rules of the commission, in a single transaction. However, a wine dealer who is licensed under IC 7.1-3-10-4 may possess wine and sell it at retail in its original package to a customer only for consumption off the licensed premises.

(c) Unless a wine dealer is a grocery store or drug store, a wine dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A wine dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a person who is outside the licensed premises.

(d) However, a wine dealer who is licensed under IC 7.1-3-10-4 may deliver wine only in permissible containers to a customer's residence, office, or designated location. ~~in a quantity that does not exceed three (3) standard cases, as determined under the rules of the commission.~~ This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.



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1 SECTION 5. [EFFECTIVE UPON PASSAGE] A new or renewal
2 beer dealer permit issued or transferred to a package liquor store
3 after June 30, 1997, and until the effective date of this act is
4 legalized.

5 SECTION 6. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred House Bill 1129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission may issue a beer dealer's permit only to an applicant who is the proprietor of a drug store, ~~or~~ grocery store, **or package liquor store.**

(b) The commission may issue a beer dealer's permit to an applicant that is a foreign corporation if:

- (1) the applicant is duly admitted to do business in Indiana;
- (2) the sale of beer is within the applicant's corporate powers; and
- (3) the applicant is otherwise qualified under this title.

(c) The commission shall not issue a beer dealer's permit to a person who is disqualified under the special disqualifications. However, the special disqualification listed in ~~IC 7.1-3-4-2(13)~~ **IC 7.1-3-4-2(a)(13)** shall not apply to an applicant for a beer dealer's permit.

(d) Notwithstanding subsection (a), the commission may renew a beer dealer's permit for an applicant who:

- (1) held a permit before July 1, 1997; and
- (2) is the proprietor of a confectionery or a store that:
 - (A) is not a drug store, ~~or~~ grocery store, **or package liquor store;**
 - (B) is in good repute; and
 - (C) in the judgment of the commission, deals in merchandise that is not incompatible with the sale of beer.

SECTION 2. IC 7.1-3-12-5, AS AMENDED BY P.L.235-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) The holder of a farm winery permit:

- (1) is entitled to manufacture wine and to bottle wine produced by the permit holder's farm winery;
- (2) is entitled to serve complimentary samples of the winery's wine on the licensed premises;
- (3) is entitled to sell the winery's wine on the licensed premises to consumers either by the glass, or by the bottle, or both;
- (4) is entitled to sell wine by the bottle or by the case to a person who is the holder of a permit to sell wine at either wholesale or retail;
- (5) is exempt from the provisions of IC 7.1-3-14;

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(6) is entitled to advertise the name and address of any retailer or dealer who sells wine produced by the permit holder's winery; ~~and~~
 (7) for wine described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the wine on the licensed premises; and

(B) may not sell, offer to sell, or allow the sale of the wine on the licensed premises; ~~and~~

(8) is entitled to purchase and sell bulk wine as set forth in this chapter.

(b) With the approval of the commission, a holder of a permit under this chapter may conduct business at a second location that is separate from the winery. At the second location, the holder of a permit may conduct any business that is authorized at the first location, except for the manufacturing or bottling of wine.

(c) With the approval of the commission, a holder of a permit under this chapter may, individually or with other permit holders under this chapter, participate in a trade show or an exposition at which products of each permit holder participant are displayed, promoted, and sold. The commission may not grant approval under this subsection to a holder of a permit under this chapter for more than nine (9) days in a calendar year.

SECTION 3. IC 7.1-3-12-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 7. (a) Except as provided in subsection (b), a farm winery may purchase annually a quantity of bulk wine that does not exceed the greater of the following:**

(1) Five thousand five hundred (5,500) gallons.

(2) Fifty percent (50%) of the quantity of wine produced by fermentation by the winery during the previous year.

(b) This subsection applies to a farm winery that suffers a loss of wine inventory due to natural or manmade disaster. If the farm winery documents the inventory loss and obtains permission from the commission, the winery may purchase a quantity of bulk wine not greater than the sum of the following:

(1) The quantity of the winery's wine inventory loss.

(2) The quantity of bulk wine that may be purchased by the farm winery annually under subsection (a)."

Page 2, delete lines 1 through 39.

Page 3, after line 25, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE UPON PASSAGE] A new or renewal beer dealer permit issued or transferred to a package liquor store after June 30, 1997, and until the effective date of this act is

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legalized.

SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1129 as introduced.)

KUZMAN, Chair

Committee Vote: yeas 11, nays 0.

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